

## CITY OF MIAMI BEACH

### CODE

#### DIVISION 5. CAMPAIGN FINANCE REFORM

##### **Sec. 2-487. Prohibited campaign contributions by vendors.**

###### *A. General.*

- (1) (a) No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify potential vendors of the proscription embodied herein.
- (b) i. No candidate or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or indirectly solicit, accept<sup>2</sup> or deposit into such candidate's campaign account any campaign contribution from a vendor. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the procurement division's city records (including City of Miami Beach website) to verify the vendor status of any potential donor.
- ii. For purposes of subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a vendor for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioners, or a member of the city commission, solicits a vendor for campaign contributions for a political committee which supports or opposes candidates for city elected office.
- (2) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
- (3) (a) Disqualification from serving as vendor.
  1. A person or entity other than a vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city.
  2. i. A vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from serving as a vendor with the city for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City

Commission (per subsection B herein below) in the event a waiver of said violation is sought.

- ii. In the event such waiver request for a particular transaction is granted, the affected vendor shall nonetheless be disqualified from serving as a vendor with the city as to all other vendor projects for the stated 12-month period. In the event such waiver request is denied for a particular transaction, the 12-month disqualification period shall apply to both the particular transaction which was the subject of the waiver request, as well as all other vendor projects during that 12-month period.

(b) Definition. For purposes of this section, the term "disqualified" shall be defined to include:

1. Termination of a donor/vendor's existing contract with the city, subject to the waiver provisions of subsections B(1)(d) and B(2) herein; and
2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the city, subject to the waiver provisions of subsections B(1)(a), (b) and (c) herein.

(4) As used in this section:

- (a) 1. A "vendor" is a person and/or entity who has been selected by the city as the successful contractor on a present or pending solicitation for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment or purchasing card payment. The term "vendor" shall not include those persons and/or entities who provide goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.
2. "Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.
3. For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.
- (b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting services to the city.
- (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented (copies available in city clerk's office).
- (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (e) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. *Waiver of prohibition.*

- (1) *Conditions for waiver.* The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:
  - (a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or
  - (b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or
  - (c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or
  - (d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.
- (2) *Conditions for limited waiver.* Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection B(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.
- (3) *Full disclosure.* Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

C. *Applicability.* This section shall be applicable only to prospective transactions, and the city commission may in no case ratify a transaction entered into in violation of this section.

(Ord. No. 2000-3244, § 1, 5-10-00; Ord. No. 2003-3389, § 1, 1-8-03; Ord. No. 2004-3446, § 1, 5-26-04; Ord. No. 2005-3486, § 1, 6-8-05; Ord. No. 2006-3544, § 1, 12-6-06; Ord. No. 2016-3991, § 1, 1-13-16)

<sup>2</sup> This portion of the City's Campaign Finance Law prohibiting direct or indirect solicitation or acceptance of certain campaign contributions, applicable to Code Section 2-487 through and including 2-490, shall be effective as of March 1, 2016, in order to obviate issues of unlawful retroactive legislation.

**Sec. 2-488. Prohibited campaign contributions by lobbyists on procurement issues.**

- (1) No lobbyist on a present or pending solicitation for goods, equipment or services or on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment, or purchasing card payment shall solicit for or give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. The term "lobbyist" shall not include those individuals who lobby on behalf of persons and/or entities in connection with their provision of goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.

- (a) Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify lobbyists of the proscription embodied herein.
  - (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this ordinance. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city clerk's records to verify the lobbyist status of any potential donor.
    - ii. For purposes of Subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a lobbyist on a procurement issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a lobbyist on a procurement issue for campaign contributions for a political committee which supports or opposes candidates for City elected office.
- (2) (a) A person other than a lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services.
  - (b) A lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services for a period of 12 months from a final finding of violation.
- (3) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
  - (4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
  - (5) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
  - (6) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, § 97.021(5), as amended and supplemented.
- (Ord. No. 2003-3393, § 1, 2-5-03; Ord. No. 2005-3486, § 2, 6-8-05; Ord. No. 2006-3544, § 2, 12-6-06; Ord. No. 2016-3991, § 1, 1-13-16)

**Sec. 2-489. Prohibited campaign contributions by real estate developers.**

**A. General.**

- (1) (a) No real estate developer shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the February 15, 2003, all applications for development agreements and for changes in zoning map designation as well as future land use map changes shall incorporate this section so as to notify potential real estate developers of the proscription embodied herein.
- (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a real estate developer. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city planning department's records (including city of Miami Beach website) to verify the real estate developer status of any potential donor.
- ii. For purposes of Subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a real estate developer for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a real estate developer for campaign contributions for a political committee which supports or opposes candidates for City elected office.
- (2) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
- (3) (a) A person or entity other than a real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from becoming a real estate developer.
- (b) 1. A real estate developer who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from becoming a real estate developer for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission in the event a waiver of said violation is sought.
2. In the event such waiver request for a particular real estate project and/or land use application is granted, the affected real estate developer shall nonetheless be disqualified from serving as a real estate developer with the city as to all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below for the stated 12-month period. In the event such waiver request is denied for a particular real estate project and/or land use application, the 12-month disqualification period for the affected real estate developer shall apply to both the particular real estate

project and/or land use application which was the subject of the waiver request, as well as all other relevant real estate projects and/or applications for land use relief referred to in subsection A(4)(a)(1) below during that 12-month period.

- (c) A real estate developer shall not make a contribution within 12 months after termination of its status as a real estate developer.

(4) As used in this section:

- (a) 1. A "real estate developer" is a person and/or entity who has a pending application for a development agreement with the city or who is currently negotiating with the city for a development agreement, or, who has a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.
  - 2. "Real estate developer" shall include natural persons and/or entities who hold a controlling financial interest in a real estate developer entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.
  - 3. For purposes of this section, "real estate developer" status shall terminate upon the final approval or disapproval by the city commission of the requested development agreement, and/or upon final approval or disapproval of the subject application for the land use relief, referred to in subsection (4)(a)1. above.
- (b) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch. 163, as amended and supplemented. For purposes of this section, the term "development agreement" shall include any amendments, extensions, modifications or clarifications thereto.
- (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
- (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (e) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

- B. *Conditions for waiver of prohibition.* The requirements of this section may be waived by a five-sevenths vote for a particular real estate project and/or land use application by city commission vote after public hearing upon finding that such waiver would be in the best interest of the city.

Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

- C. *Applicability.* This section shall be applicable only to prospective real estate projects and/or applications for land use relief, and the city commission may in no case ratify a development agreement and/or application for land use relief entered into in violation of this section.

(Ord. No. 2003-3394, § 1, 2-5-03; Ord. No. 2005-3486, § 3, 6-8-05; Ord. No. 2016-3991, § 1, 1-13-16)

**Sec. 2-490. Prohibited campaign contributions by lobbyists on real estate development issues.**

- (1) No lobbyist on a pending application for a development agreement with the city, or application for change of zoning map designation or change to the city's future land use map shall solicit for or give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner.
  - (a) Commencing on the effective date of this ordinance, all applications for development agreements and for changes in zoning map designation or future land use map changes, shall incorporate this section so as to notify affected lobbyists of the proscription embodied herein.
  - (b)
    - i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the city commission, shall directly or indirectly solicit, accept or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this section. Candidates (or those acting on their behalf), as well as members of the city commission, shall ensure compliance with this code section by confirming with the city clerk's and planning department's records to verify the lobbyist status of any potential donor.
    - ii. For purposes of subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the city commission actively coordinates or directs another person or entity to solicit a lobbyist on a real estate development issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of mayor or commissioner, or a member of the city commission, solicits a lobbyist on a real estate development issue for campaign contributions for a political committee which supports or opposes candidates for city elected office.
- (2)
  - (a) A person other than a lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a present development agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map.
  - (b) A lobbyist on a real estate development issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present development agreement, in connection with a development agreement that is currently being negotiated, or in connection with a present or pending application with the city for a change of zoning map designation or a change to the city's future land use map for a period of 12 months from a final finding of violation.
- (3) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

- (4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
  - (5) The term "development agreement" shall have the meaning ascribed to such term in F.S. ch 163, as amended and supplemented.
  - (6) The term "lobbyist" as used herein shall exclude any person who only appears as a representative of a nonprofit corporation or entity, without special compensation or reimbursement for the appearance, whether direct or indirect, to express his/her support of or opposition to the subject item.
  - (7) The term "political committee" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
  - (8) The term "candidate" shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.
- (Ord. No. 2003-3395, § 1, 3-5-03; Ord. No. 2005-3486, § 4, 6-8-05; Ord. No. 2016-3991, § 1, 1-13-16)

**Sec. 2-491. Prohibited lobbying by campaign consultants.**

- (1) *Prohibition.* No campaign consultant shall lobby the city commission for a period of 12 months following the swearing in of any elected official(s) for whom the campaign consultant provided campaign consulting services within the past election cycle.
- (2) *Definitions.*
  - (a) "Campaign consultant" means any person or entity that receives or is promised economic consideration in exchange for campaign consulting services to a candidate for elected office in the City of Miami Beach.
    - 1. "Campaign consultant" shall include any individual who has an ownership interest of ten percent or greater in the campaign consultant, and any employee of the campaign consultant, except as otherwise excepted below.
    - 2. "Campaign consultant" shall not include:
      - (i) Any vendor for a campaign whose primary responsibility is to supply goods or services for a campaign.
      - (ii) An employee of a campaign consultant whose sole duties are primarily clerical; or
      - (iii) An employee of a campaign consultant who did not personally provide campaign consulting services.
  - (b) "Campaign consulting services" means primary responsibility for campaign management or campaign strategy.
  - (c) "Campaign management" means conducting, coordinating or supervising a campaign to elect a candidate.
  - (d) "Campaign strategy" means formulation of plans for the election of a candidate.
  - (e) "Candidate" shall have the meaning ascribed to such term in F.S. § 97.021(5), as amended and supplemented.



- (f) "Economic consideration" means any payments, fees, commissions, gifts, or anything else of value received directly or indirectly as consideration for campaign consulting services. The term "economic consideration" does not include reimbursements for out of pocket expenses.
  - (g) "Past election cycle" means the subject immediately preceding City of Miami Beach General Election/Special Election held for the purpose of electing a member of the city commission.
  - (h) "Lobby" for purposes of this code section shall mean the act of seeking to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any member of the city commission.
- (3) *Limited exemption.* A campaign consultant who has within the past election cycle provided campaign consulting services to an incumbent member of the city commission, and has entered into a lobbying contract prior to the effective date of the ordinance creating this code section (the term of which lobbying contract includes the subject proscribed 12-month period established in subsection (1) above and the scope of which lobbying contract involves lobbying members of the city commission), is exempt from the proscription herein with limited regard to that subject lobbying contract.

(Ord. No. 2017-4110, § 1, 6-28-17)

**Secs. 2-492—2-510. Reserved.**